

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

ENTROPIC COMMUNICATIONS, LLC,

Plaintiff

v.

CHARTER COMMUNICATIONS, INC.,

Defendant.

Civil Action No. 2:22-cv-00125-JRG

JURY TRIAL DEMANDED

**CHARTER'S OBJECTIONS TO MEMORANDUM ORDER (DKT. 358)
GRANTING-IN-PART AND DENYING-IN-PART ENTROPIC'S
MOTION TO STRIKE OPINIONS OF DR. KEVIN ALMEROTH (DKT. 175)**

I. INTRODUCTION

Pursuant to Local Rule CV-72(b) and 28 U.S.C. § 636(b)(1), Defendant Charter Communications, Inc. (“Charter”) respectfully objects to Judge Payne’s Memorandum Order (the “Order,” Dkt. 358) granting-in-part and denying-in-part Plaintiff Entropic Communications, LLC’s (“Entropic”) Motion to Strike the Opinions of Dr. Kevin Almeroth (the “Motion,” Dkt. 175).

The Order is clearly erroneous and/or contrary to law for granting the Motion to strike portions of Dr. Almeroth’s expert report (the “Expert Report”) of Charter’s expert, Dr. Almeroth, that concern the third-party devices using chips from MaxLinear, Inc. (“MaxLinear”) as non-infringing alternatives. (Order at 3–4).

II. ARGUMENT

A. The Magistrate Judge’s grant of Entropic’s Motion to strike Dr. Almeroth’s report concerning the MaxLinear non-infringing alternatives was clearly erroneous and/or contrary to law

In granting Entropic’s motion to strike Dr. Almeroth’s opinions concerning MaxLinear chips as a non-infringing alternative, Magistrate Judge Payne explained that he “previously granted summary judgment that the [MaxLinear] chips were *not* non-infringing alternatives. Accordingly, these paragraphs are irrelevant and should be struck.” Order at 4. As set forth in Charter’s objections to the Report and Recommendation Granting-in-Part Entropic’s Motion for Partial Summary Judgment That Devices with MaxLinear Chips are Not Non-Infringing Alternatives Affecting The Reasonable Royalty Rate, filed contemporaneously with this brief, the Report and Recommendation was in error and Entropic’s motion should have been denied. Accordingly, should the Court sustain Charter’s objections for the reasons set forth in Charter’s brief, Charter respectfully requests that this portion of Magistrate Judge Payne’s order be reconsidered and denied because it would be clearly erroneous and/or contrary to law.

III. CONCLUSION

For the foregoing reasons, Charter respectfully requests this Court enter Charter's proposed order sustaining Charter's objections to the Magistrate Judge's Order granting-in-part and denying-in-part Entropic's Motion.

Dated: December 7, 2023

Respectfully submitted,

/s/ Daniel Reisner by permission Elizabeth Long

Deron R. Dacus
State Bar No. 00790553
The Dacus Firm, P.C.
821 ESE Loop 323, Suite 430
Tyler, TX 75701
Phone: (903) 705-1117
Fax: (903) 581-2543
Email: ddacus@dacusfirm.com

Daniel L. Reisner
David Benyacar
Elizabeth Long
Albert J. Boardman
Melissa Brown
ARNOLD & PORTER KAYE SCHOLER LLP
250 West 55th Street
New York, New York, 10019 9710
Telephone: (212) 836 8000
Email: daniel.reisner@arnoldporter.com
Email: david.benyacar@arnoldporter.com
Email: elizabeth.long@arnoldporter.com
Email: albert.boardman@arnoldporter.com
Email: melissa.brown@arnoldporter.com

Marc A. Cohn
Amy L. DeWitt
William Louden
William O. Young, Jr
Thomas Carr
Natalie Steiert
ARNOLD & PORTER KAYE SCHOLER LLP
601 Massachusetts Avenue NW
Washington, DC 20001 3743
Telephone: (202) 942-5000
Email: marc.cohn@arnoldporter.com
Email: amy.dewitt@arnoldporter.com
Email: william.louden@arnoldporter.com
Email: william.young@arnoldporter.com
Email: thomas.carr@arnoldporter.com
Email: natalie.steiert@arnoldporter.com

Zachary A. Nemirovsky
ARNOLD & PORTER KAYE SCHOLER LLP
3000 El Camino Real, 5 Palo Alto Square, #500

Palo Alto, California, 94304
Telephone: (650) 319-4500
Email: zachary.nemirovsky@arnoldporter.com

Attorneys for Defendant
Charter Communications, Inc.

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document and all attachments thereto are being filed electronically in compliance with Local Rule CV-5(a). As such, this document is being served December 7, 2023, on all counsel of record, each of whom is deemed to have consented to electronic service. L.R. CV-5(a)(3)(A).

/s/ Elizabeth Long
Elizabeth Long